



JUDICIARY

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

MISC. CRIMINAL CASE NUMBER 6b OF 2009

COLLINS MONTE NG'AMBI

VERSUS

THE ANTI – CORRUPTION BUREAU

CORAM: THE HONOURABLE JUSTICE E. B. TWEA

KHUNGA, of Counsel for the State

MAKHALIRA, of Counsel for the Accused

N. NYIRENDA - Official Interpreter

R U L I N G

Twea, J

This is an application for reversal of Restriction order made under Section 23(5) of the Corrupt Practices Act. This Section reads: that any person aggrieved by restriction notice issued by the Director of the Anti – Corruption Bureau may at any time apply to this court for an order to reverse or vary such directive. Restriction notices are issued under Section 23(1) to preserve property affected by investigation or proceedings concerning

corrupt practices. In the essence it is a preservation order.

The applicant filed his affidavit explaining innocent acquisition or possession of the property is issue. The state filed an affidavit in opposition showing the contrary. The applicant subsequently filed an affidavit of one Mailesi Ng'ambi, an aunt to the applicant, which tended to support the evidence of the applicant.

I have carefully examined the evidence. I am aware that this is not a trial. My duty at this stage is to examine the evidence and determine whether or not the restriction order is justified.

It is on record that the applicant is employed and earns about K18,000 per month. In the period between March and August 2008 he brought or acquired real property: six plots within Karonga Town Assembly and he spent over K5, 000,000 in cash. The applicant also acquired other pieces of land and property after that period. The applicant deponed that the land and property were family property. Further that he disposed of some deceased estate property within the family and used the proceeds therefrom and some savings to buy the other properties. However, the period in issue, 1992 – 2001, does not tally with the period of acquisition of the property as deponed by the state and this has not been disputed.

It is my view therefore that the applicant has not satisfied this court on balance of probabilities that the property is family property. I am inclined to believe the State; that the property was acquired in quick succession and the means for the purchase thereof have not be explained. This in my view justifies the investigation and thus the restriction order.

I therefore dismiss the application with costs.

Pronounced in Chambers this day of 26th February 2009, at Blantyre.

E. B. Twea
JUDGE

